IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24622 of 2004

Between:

M. Arjuna Reddy S/o Dr. M. Narayana Reddy
Narva Mandal, Mahabubnagar district

..... PETITIONER

AND

1 The Superintending Engineer (Operation), Central Power Distribution Company of Andhra Pradesh Ltd., Mahabubnagar
2 The Divisional Engineer (OPerations) Atmakur, Mahabubnagar District
3 The Assistant Divisional Engineer, Atmakur, Mahabubnagar District
4 The Inspector of Police, Vigilance & APTSPS, Mahabubnagar

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or direction more particularly one in the natrue of Writ of Mandamus declaring the action of the respondnets-1 to 3 in not installing the LT meter and supplying of electricity to the petitioner's Mini Rice Mill situated Kalwal Village, Narva Mandal, Mahabubnagar District though the same was sanctioned and allotted by the departmental authorities on 02-11-2004 as illegal, arbitrary and unjust and further declare that the criminal case foisted against the petitioner in FIR No. 5679/2004 registered in APTSPS, Mahabubnagar as illegal and set a side the same and consequently direct the respondnets-1 to 3 to install the LT Meter to the petitioner's Mini Rice Mill immediately and supply the electricity to the petitioner's Unit in the interest of justice and pass such other order or orders.

Counsel for the Petitioner:MR.M.RATNA REDDY

Counsel for the Respondent No.4: GP FOR HOME

Counsel for the Respondents 1 to 3: S.C. for APSEB

The Court, at the stage of admission, made the following :

ORDER:

Petitioner feels aggrieved by the institution of proceedings by the respondents for prosecution.

Petitioner established a rice mill at Kalwal Village, Narva Mandal, Mahbubnagar District, in May 2004. He has also made necessary deposits with the respondents for securing power supply. The line is said to have been drawn and transformer established at his own cost. Petitioner also claims that he deposited the maintenance charges.

According to the petitioner, the mill had to be tested, so as to see the proper fitting and establishment, through the generator, and on the assumption that the mill was run by tapping power illegally from the lines, prosecution was initiated. It is also his case that though he complied with all the formalities, the respondents did not extend the power supply.

Heard the learned counsel for the petitioner and the learned standing counsel for respondents.

Even from the letter, dated 04.12.2004, which constituted the basis for prosecution of the petitioner, it is evident that the petitioner had provided necessary infrastructure at his own cost for supply of electricity. Except that a meter was to be fixed everything was completed. The prosecution was ordered against the petitioner on the assumption that the mill was run by the petitioner by tapping the power from the line without there being a valid connection. Petitioner strongly asserts that he ran the mill by using a generator.

This Court passed an interim order on 31.12.2004. It was to the effect that there shall be stay of proceedings in FIR No.5679 of 2004 and that the respondents shall take necessary steps to provide electricity to the petitioner. It is represented that the power supply has since been extended to the petitioner on 15.01.2005. Now the only question that needs to be considered by the respondents is as to whether the petitioner can be said to have pilfered any energy. For this purpose, they can undertake enquiry under Section 126 of the Electricity Act, 2003, instead of straight away prosecuting the petitioner. The prosecution can ensue only when it is established in the departmental proceedings that the petitioner resorted to pilferage of energy.

In that view of the matter, the writ petition is disposed of directing that further proceedings in FIR No.5679 of 2004, shall stand deferred, until the respondents issue an order of provisional assessment and thereafter an order of final assessment. It shall be open to the petitioner to place such material as he intends to, as and when he receives an order of provisional assessment. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 16.02.2005

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To

1 The Superintending Engineer (Operation), Central Power Distribution Company

of Andhra Pradesh Ltd., Mahabubnagar
2 The Divisional Engineer (OPerations) Atmakur, Mahabubnagar District
3 The Assistant Divisional Engineer, Atmakur, Mahabubnagar District
4 The Inspector of Police, Vigilance & APTSPS, Mahabubnagar

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